

OCT 08 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/828,488 Confirmation No.:
Applicant: Douglas A. Lorenz, et al
Filed: April 20, 2004
TC/A.U.:
Examiner:
Docket No.: PC25825A
Customer No.: 28880
Title: PROCESS FOR FORMING AMORPHOUS ATORVASTATIN

Petition in Response to Notice of Incomplete Nonprovisional Application

Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This paper is in response to the Notice of Incomplete Nonprovisional Application filed under 37 C.F.R. 1.53(b), dated September 23, 2004. In the Notice of Incomplete Nonprovisional Application, the Office alleged that the Applicant submitted an unsigned Oath or Declaration. The Office further alleged that the subject application was filed without drawings in compliance with 35 U.S.C. § 113.

Enclosed with this paper is an Oath or Declaration which has been executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68.

The requirement of a submission of an Oath or Declaration of the inventor in compliance with 37 CFR 1.53(b) has been satisfied. Thus, all requirements for acceptance of the instant application under 37 CFR 1.53(b) have been met. Accordingly, applicant respectfully requests acceptance of the above-identified application under 37 CFR 1.53(b).

Applicant now turns their attention to the allegation that the subject application was filed without drawings in compliance with 35 U.S.C. § 113. Applicant states that said drawings were included in the original submission of the above-referenced application on April 20, 2004.

As part of the general procedure during filing, the undersigned reviews for completion and consistency the number of the application pages being submitted to the United States Patent and Trademark Office (USPTO). Thereafter, the application package is given to the undersigned's assistant for mailing. To the best of the undersigned's knowledge, this procedure was followed with the application under consideration, and the mailing was completed without any further incident or unusual occurrence suggesting that any portion of the specification was omitted from the application submitted to the USPTO.

Attached herewith are the following copies from Applicant's file of the application under consideration:

1. The itemized return receipt postcard acknowledged and returned by the USPTO to Applicant;
2. The Certificate of Mailing stating express mailing Label Number ER917095700US, the date of mailing of April 20, 2004, and docket number PC25825A;
3. The Utility Patent Application Transmittal specifying the submission of a specification having a total of 19 pages (item 3, transmittal); the transmittal displaying the above mailing label number and docket number; and
4. Copies of the three drawings which are currently alleged as omitted.

As stated in item number four (4) above, Applicant has included copies of the three drawings which are alleged to have been omitted. Thus, in light of all of the above, it is apparent to Applicant that the allegedly omitted drawings were submitted as part of this application's filing on April 20, 2004.

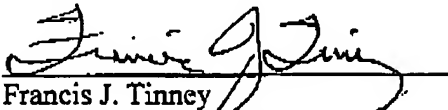
Accordingly, by way of this Petition, Applicant respectfully requests that the filing date of April 20, 2004, be granted with respect to the executed Oath and Declaration and three drawings under consideration.

Authorization hereby is given to charge any fee which may be required, or credit any overpayment, to Deposit Account 23-0455.

Applicant respectfully requests examination of the application on the merits.

Respectfully submitted,

Dated: 10/8/04


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